

Appendix E

Ordinance 1190

ORDINANCE NO. 1190

AN ORDINANCE ESTABLISHING REQUIREMENTS RELATING TO STORM SEWERS AND SURFACE WATERS POLLUTION PREVENTION FOR THE CITY OF MISSION HILLS, KANSAS, AND AMENDING CHAPTER V, ARTICLE 4, OF THE CITY OF MISSION HILLS, KANSAS CODE OF ORDINANCES, ENTITLED "STORM SEWERS CONNECTIONS"

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION HILLS, KANSAS:

SECTION 1. Article 4 of Chapter V of the City of Mission Hills, Kansas Code of Ordinances is hereby amended to read as follows:

Article 4 – Storm Sewers; Connections; Pollution Prevention, including Illicit Discharges

5-401. Connection to Storm Sewers in City. Every Person making or causing to be made a connection with the City's municipal storm sewer system for any purpose whatsoever must first obtain a permit therefor from the City.

5-402. Permit and Fee for Connection to Storm Sewer. The City will issue a permit for connection to the municipal storm sewer system upon receipt of a complete, written application by the Person, firm or corporation desiring to make the connection. The application must state the location of the sewer that the applicant desires to connect to, its size, and whether or not the sewer is located under street pavement. Prior to receiving a connection permit, the applicant must also show that the applicant has applied for and obtained an excavation permit from the City for excavation required to connect to the municipal storm sewer system. The City Clerk shall charge, collect and pay to the City Treasury a fee of \$5.00 for each sewer connection permit issued.

5-403. Stormwater Pollution Prevention.

A. Title. The title of Mission Hills Code Section 5-403.A. through 5-403.J., inclusive, shall be known as the Stormwater Pollution Prevention Act ("Act").

B. Purpose and Findings.

1. The purpose of this Act is to prevent the discharge of pollutants from land and activities within the City into the municipal separate storm sewer system (MS4) and/or into surface waters:
2. The Governing Body of the City hereby finds that pollutants are discharged into surface waters, both through inappropriate non-stormwater discharges into the MS4 or the surface waters directly, and through the wash off and transport of pollutants found on the land and built surfaces by stormwater during rainfall events.
3. Further, the Governing Body of the City hereby finds that such discharge of pollutants may lead to increased risks of disease and harm to individuals, particularly children, who come into contact with the water; may degrade the quality of this water for human uses, such as drinking, irrigation, recreation, and industry; and may damage the natural ecosystems of rivers, streams, lakes and wetlands, leading to a decline in the diversity and abundance of plants and animals.

4. Further, the Governing Body of the City hereby finds that incorporation of the Act into the City's Code of Ordinances will promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, Hazardous Waste, sediment and other pollutants into the storm drainage system.
5. Further, the Governing Body of the City hereby finds that these discharges are inconsistent with the provisions and goals of the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES), and other federal and state requirements for water quality and environmental preservation.
6. Further, the Governing Body of the City hereby finds that a reasonable establishment of restrictions and regulations on activities within the City is necessary to eliminate or minimize these discharges of pollutants, to protect the health and safety of citizens, to preserve economic and ecological value of existing water resources within the City and within downstream communities, and to comply with the provisions of the City's responsibilities under the Clean Water Act and the NPDES program.

C. **Abbreviations.** The following abbreviations when used in this Act shall have the designated meanings:

BMP	Best Management Practice
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
HHW	Household Hazardous Waste
KDHE	Kansas Department of Health and Environment
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
PST	Petroleum Storage Tank

D. **Definitions.** For the purposes of this Act, the following definitions shall apply:

1. "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the Discharge of Pollutants directly or indirectly to Stormwater, receiving waters, or Stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
2. "Car" means any vehicle meeting the definition for passenger car, passenger van, pickup truck, motorcycle, recreational vehicle, or motor home.
3. "City" means the City of Mission Hills, Kansas.
4. "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.
5. "Code" means the City of Mission Hills, Kansas Code of Ordinances.
6. "City Administrator" means the City Administrator or the City Administrator's

authorized representative.

7. "Discharge" means the addition or introduction, directly or indirectly, of any Pollutant, Stormwater, or any other substance into the MS4 or Surface Waters.
8. "Domestic Sewage" means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other Wastewater from household drains, and waterborne Waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, retail and commercial establishments, factories, and institutions, that is free from Industrial Waste.
9. "Extremely Hazardous Substance" means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.
10. "Fertilizer" means a substance or compound that contains a plant nutrient element in a form available to plants and is used primarily for its plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more Fertilizers.
11. "Hazardous Household Waste (HHW)" means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a Hazardous Waste under 40 CFR Part 261 or K.A.R 28-29-23b.
12. "Hazardous Substance" means any substance listed in Table 302.4 of 40 CFR Part 302.
13. "Hazardous Waste" means any substance identified or listed as a Hazardous Waste by the EPA pursuant to 40 CFR Part 261.
14. "Industrial Waste" means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.
15. "Municipal Separate Storm Sewer System (MS4)" means the system of conveyances, (including roads with drainage systems, municipal streets, private streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying Stormwater, and which is not used for collecting or conveying Sewage.
16. "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the federal Clean Water Act.
17. "NPDES Permit" means for the purpose of this chapter, a permit issued by United States Environmental Protection Agency (EPA) or the State of Kansas, which authorizes the Discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
18. "Oil" means any kind of oil in any form, including but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, bio-fuel, cooking oil, grease, sludge, oil refuse, and oil mixed with Waste.

19. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.
20. "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant, or desiccant.
21. "Petroleum Product" means a product that is obtained from distilling and processing crude Oil and that is capable of being used as a fuel or lubricant in a motor vehicle, boat or aircraft including motor Oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel Oil and #1 and #2 diesel fuel.
22. "Pollutant" means any substance or material that contaminates or adversely alters the physical, chemical or biological properties of the waters, including changes in temperature, taste, odor, turbidity, or color of the water. This substance or material may include, but is not limited to, dredged spoil, spoil Waste, incinerator residue, Sewage, pet and livestock Waste, garbage, Sewage sludge, munitions, chemical Waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard Waste, Hazardous Household Wastes, Oil and Petroleum Products, used motor Oil, anti-freeze, litter, Pesticides, and industrial, municipal, and agricultural Waste discharged into water.
23. "Property Owner" means the named Property Owner as indicated by the records of the Johnson County, Kansas Records and Tax Administration.
24. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 and/or Surface Waters.
25. "Sanitary Sewer" means the system of pipes, conduits, and other conveyances that carry Industrial Waste and Domestic Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a Sewage treatment plant and to which Stormwater, surface water, and groundwater are not intentionally admitted.
26. "Septic Tank Waste" means any Domestic Sewage from holding tanks, such as vessels, chemical toilets, campers, trailers, and septic tanks.
27. "Sewage" means the Domestic Sewage and/or Industrial Waste that is discharged into the Sanitary Sewer system and passes through the Sanitary Sewer system to a Sewage treatment plant for treatment.
28. "State" means the state of Kansas.
29. "Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.
30. "Surface Waters" means any body of water classified as "surface waters" by the state of Kansas, including streams, rivers, creeks, brooks, sloughs, draws, arroyos, canals,

springs, seeps, cavern streams, alluvial aquifers associated with these Surface Waters, lakes, man-made reservoirs, oxbow lakes, ponds, and wetlands, as well as any other body of water classified by the federal government as a "water of the United States".

31. "Waste" means any garbage, refuse, sludge or other discarded material that is abandoned or committed to treatment, storage or disposal, including solid, liquid, semi-solid or contained gaseous materials resulting from industrial, commercial mining, community and agricultural activities. Waste does not include solid or dissolved materials in Domestic Sewage or irrigation return flows or solid or dissolved materials or industrial Discharges that are point sources subject to permits under the state of Kansas. The Federal definition of solid Waste is found at 40 CFR 257.2.
32. "Water Quality Standard" means the law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body and an anti-degradation statement.

E. General Prohibition.

1. No Person shall Release or cause to be Released into the MS4, or into any Surface Water within the City, any Discharge that is not composed entirely of Stormwater that is free of Pollutants, except as allowed in subsection 2 of this section.
2. Unless identified by the City or KDHE as a significant source of Pollutants to Surface Water, the following non-stormwater Discharges are deemed acceptable and not a violation of this section:
 - a. water line flushing;
 - b. diverted stream flow;
 - c. rising groundwater;
 - d. uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to separate storm sewers;
 - e. uncontaminated pumped groundwater;
 - f. contaminated groundwater if authorized by KDHE and approved by the municipality;
 - g. discharges from potable water sources;
 - h. foundation drains;
 - i. air conditioning condensate;
 - j. irrigation waters;
 - k. springs;

- l. water from crawl space pumps;
 - m. footing drains;
 - n. individual residential Car washing;
 - o. flows from riparian habitats and wetlands;
 - p. dechlorinated swimming pool discharges, excluding filter backwash;
 - q. street wash waters (excluding street sweepings which have been removed from the street);
 - r. discharges or flows from emergency fire fighting activities;
 - s. heat pump discharge waters (residential only);
 - t. treated Wastewater or other discharges meeting requirements of a NPDES permit; and
 - u. other discharges determined not to be a significant source of Pollutants to waters of the state, a public health hazard or a nuisance.
- 3. Discharges specified in writing by the City Administrator, as being necessary to protect public health and safety.
 - 4. Notwithstanding the provisions of subsection 2 of this section, any Discharge shall be prohibited by this section if the Discharge in question has been determined by the City Administrator to be a source of a Pollutant to the MS4 or to Surface Waters, written notice of such determination has been provided to the Property Owner or Person responsible for the Discharge and the Discharge has occurred more than ten (10) days after that notice is provided.

F. Specific Prohibitions and Duties. The specific prohibitions and requirements in this section are not inclusive of all the Discharges prohibited by the general prohibition in Section E, but are provided to address specific Discharges that are frequently found or are known to occur:

- 1. No Person shall Release or allow to be Released any of the following substances into the MS4:
 - a. any new or used Petroleum Product or Oil;
 - b. any Industrial Waste;
 - c. any Hazardous Substance or Hazardous Waste, including Household Hazardous Waste;
 - d. any Domestic Sewage or Septic Tank Waste, grease trap or grease interceptor Waste, holding tank Waste, or grit trap Waste;

- e. any garbage, rubbish or other Waste;
- f. any new or used paints, including latex-based paints, Oil-based paints, stains, varnish, and primers, as well as cleaning solvents and other associated products;
- g. any yard Wastes which have been moved or gathered by a Person;
- h. any Wastewater that contains soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment;
- i. any Wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent or any surfactant based cleaner;
- j. any Wastewater from commercial floor, rug or carpet cleaning;
- k. any Wastewater from the washdown or other cleaning of pavement that contains any soap, detergent solvent, degreaser, emulsifier, dispersant or other cleaning substance; or any Wastewater from the washdown or other cleaning of any pavement, where any spill, leak, or other Release of Oil, motor fuel, or other petroleum or Hazardous Substance has occurred, unless all those materials have been previously removed;
- l. any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter or the blowdown from a boiler;
- m. any ready-mixed concrete, mortar, ceramic, or asphalt base material or Discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying that material;
- n. any runoff, washdown water or Waste from any animal pen, kennel, fowl or livestock containment area or any pet Wastes generally;
- o. any filter backwash from a swimming pool or fountain;
- p. any swimming pool, fountain or spa water containing a harmful level of chlorine (> 0 parts per million), muriatic acid or other chemical used in the treatment or disinfection of the water or during cleaning of the facility;
- q. any Discharge from water line disinfection by super chlorination, if it contains a harmful level of chlorine (>0 parts per million) at the point of entry into the MS4 or Surface Waters;
- r. any contaminated runoff from a vehicle wrecking or storage yard;
- s. any substance or material that will damage, block or clog the MS4;

- t. any Release from a petroleum storage tank (PST) or any leachate or runoff from soil contaminated by leaking PST; or any Discharge of pumped, confined or treated Wastewater from the remediation of any such PST Release, unless the Discharge has received an NPDES Permit from the state; or
 - u. any other Discharge that causes or contributes to causing the City to violate a state Water Quality Standard, the City's NPDES Stormwater permit or any state-issued Discharge permit for Discharges from its MS4.
- 2. No Person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures.
- 3. No Person shall connect a line conveying sanitary Sewage, domestic or industrial, to the MS4. No Property Owner shall allow this type connection to continue in use on their property.
- 4. No Person shall use Pesticides, herbicides and Fertilizers, except in accordance with manufacturer recommendations. Pesticides, herbicides and Fertilizers shall be stored, transported and disposed of in a manner to prevent Release to the MS4.
- 5. No Person shall tamper with, destroy, vandalize or render inoperable any BMPs that have been installed for the purpose of eliminating or minimizing Pollutant Discharges, nor shall any Person fail to install or fail to properly maintain any BMPs that have been required by the City or by other local, state, or federal jurisdictions.

G. Inspection and Detection Program. The City Administrator is authorized to develop and implement a plan to actively detect and eliminate prohibited Discharges and connections to the MS4 or Surface Waters within the City. This plan may include, but is not limited to, periodic and random inspections of facilities and businesses, particularly those most associated with potentially prohibited Discharges; visual surveys of exterior practices; inspection, sampling and analyses of Discharges from outfalls of the MS4, particularly during dry weather periods; manhole and pipe inspections to trace Discharges through the system to point of origin; education on pollution prevention; and receipt of complaints and information from the public regarding known or suspected Discharges.

H. Release Reporting and Clean-up.

- 1. Any Person responsible for the Release of any prohibited material that may flow, leach, enter or otherwise be introduced into the MS4 or Surface Waters shall take all necessary steps to ensure the containment and cleanup of that Release.
- 2. In the event of a Release of hazardous materials, the Person responsible shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
- 3. In the event of a Release of non-hazardous materials, the Person responsible shall notify the City Administrator in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Administrator within three (3) business days of the phone notice.

I. Enforcement; Designation of Officer; Abatement; Right of Entry; Penalty. The City Administrator or his or her appointed representative shall be designated as the public officer charged with the administration and enforcement of this Act. The public officer shall authorize the investigation of violations of the Act. If it is determined that a violation of this Act exists, the officer shall declare that condition a nuisance, and, in addition to enforcement of Section 5-404 of this Ordinance, is authorized to pursue abatement and enforcement procedures as specified in Article 1 of Chapter VI of the Code.

J. Severability. If any section, subsection, paragraph, sentence, clause or phrase in this Act or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

5-404. Penalties for Violation of Ordinances. Any Person violating any of the provisions of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$10.00 and not more than \$100.00 and costs, or confinement in jail for not more than thirty (30) days.

Section 2. Repeal. That existing Article 4 to Chapter V of the City of Mission Hills, Kansas Code of Ordinances is hereby repealed.

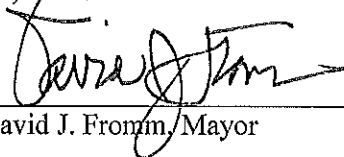
Section 3. Codification. Section 1 of this Ordinance shall be codified in the City of Mission Hills, Kansas Code of Ordinances.

Section 4. Effect on Existing Litigation. That the repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.

Section 5. Effective Date. This Ordinance shall take effect and be in force from and after its publication in the official City newspaper.


PASSED by the City Council this 3rd day of October, 2006.

APPROVED by the Mayor this 3rd day of October, 2006.



David J. Fromm, Mayor

Attest:

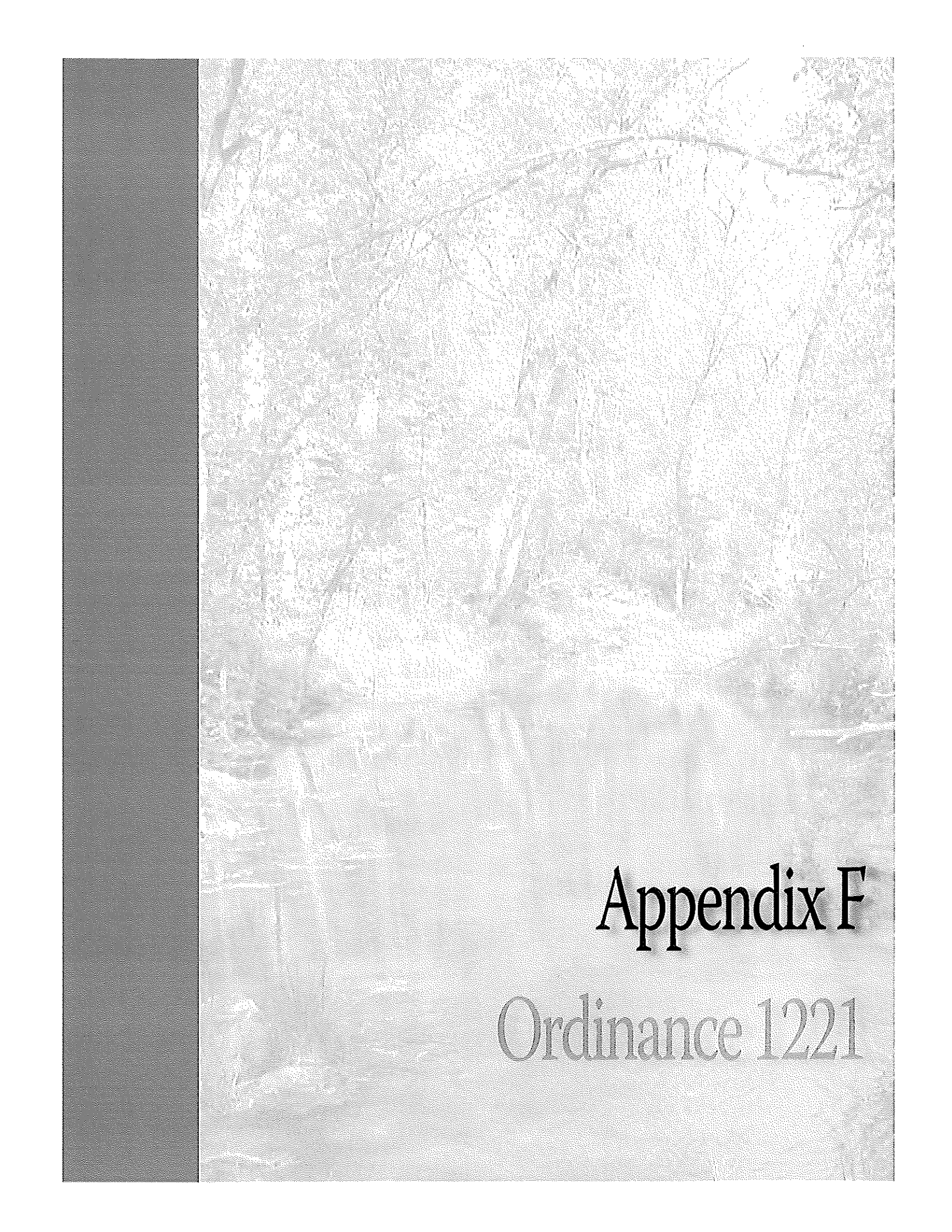


Jill Clifton, City Clerk

Approved as to Form:



Stephen P. Chinn, City Attorney



Appendix F

Ordinance 1221

ORDINANCE NO. 1221

AN ORDINANCE RELATING TO STORMWATER, EROSION AND SEDIMENT CONTROL FOR LAND DISTURBANCE ACTIVITIES; AMENDING AND REPEALING EXISTING SECTIONS 5-1301, 5-1303, 5-1304, 5-1305, 5-1307, 5-1308, 5-1311, 5-1312, 5-1313, 5-1314, 5-1315, 5-1316, 5-1317, 5-1318, 5-1319 AND 5-1322 OF THE CODE OF ORDINANCES OF THE CITY OF MISSION HILLS, KANSAS; AND ADDING A NEW SECTION 5-1326 TO THE CODE OF ORDINANCES OF THE CITY OF MISSION HILLS, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION HILLS, KANSAS:

SECTION 1. Existing Section 5-1301 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1301. Purpose. The purpose of Chapter V, Article 13 is to control and minimize Off-Site stormwater drainage, soil erosion and sedimentation within the City of Mission Hills. The construction and land disturbance process creates ground surface and subsurface soil conditions that are highly susceptible to erosion by wind and water, as well as conditions that redistribute and increase stormwater drainage and Off-Site sedimentation, all of which contribute to the degradation of water quality, increase Off-Site siltation and impairment of storm sewer systems, and adversely impact adjacent properties. This Section establishes standards and specifications for conservation practices and planning activities which minimize Off-Site stormwater drainage, soil erosion and sedimentation. These provisions are in compliance with the requirements in the United States Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES) Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges (64 Fed. Reg. 68722), specifically the Phase II Final Rule, as required by Section 402(p) of the Clean Water Act, by developing regulatory mechanisms and procedures relating to:

- (a) the implementation of proper erosion and sediment controls, and controls for other wastes, on applicable construction sites;
- (b) review of site plans and construction plans that consider potential water quality impacts;
- (c) site inspection and enforcement of control measures, and sanctions to ensure compliance with the ordinance;
- (d) the receipt and consideration of information submitted by the public; and
- (e) the appropriate best management practices (BMPs) and measurable goals for the minimum control measures.

In addition to addressing the foregoing objectives, the City acknowledges the need to address additional construction-related impacts that affect the aesthetics, property values, enjoyment and general welfare of the residents and the City as a whole, as well as compliance with the Comprehensive Plan. Consequently, this Section addresses the additional aesthetic and visual impacts resulting from Land Disturbance Activities, including grading, excavating, filling, recontouring, and other activities that result in the alteration of topographic elevations.

Due to the frequency and type of Land Disturbance Activities that must be conducted at Country Clubs, especially those with golf courses, it is the intent of the City to reduce the administrative burden on those entities by creating an annual permitting process to authorize the types of anticipated Land Disturbance Activities impacting less than one acre that may be conducted by the Country Club throughout the calendar year.

SECTION 2. Existing Section 5-1303 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1303. Definitions. For the purposes of Chapter V, the following terms, phrases, words, and their derivatives shall have the meaning stated below, including additional definitions established in the City's BMP Manual:

Annual Comprehensive Erosion and Sediment Control Plan (see Erosion and Sediment Control Plan, below).

Annual Comprehensive Land Disturbance Permit is a permit issued to a Country Club on an annual, calendar-year basis to comprehensively and cumulatively address each and every Land Disturbance Activity conducted on Country Club property over the course of the year which, individually, involves impacts to less than one acre of land.

Applicant is any Owner who submits an application to the City for a Land Disturbance Permit pursuant to this Section.

Backfill means the process of placing soil, gravel or rock to replace what was removed during construction.

Bedrock is in-place, solid rock.

Best Management Practices (BMP) is a technique or series of techniques which are proven to be effective in controlling runoff, erosion, and sedimentation.

BMP Manual is a compilation of technical standards, techniques and design specifications adopted by the City of Mission Hills as being proven methods of controlling land disturbance-related surface runoff, erosion and sedimentation. The BMP Manual contains definitions that are incorporated herein by reference. The City's BMP Manual shall be amended from time to time, at the discretion of the City Administrator.

Borrow is earth material acquired from an Off-Site location for use in grading on a site.

Building means any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel, and includes Principal Building and Detached Accessory Building.

City Administrator, and his/her duly authorized designee, is the acting land disturbance inspector of the City of Mission Hills.

City Engineer is the professional engineer engaged by the City of Mission Hills for the purposes of consulting and evaluation related to Land Disturbance Activities.

Clearing and grubbing is the cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots, and other remains in the designated areas.

Conditional Tier 1 Land Disturbance Activity means a Land Disturbance Activity that does not qualify as either a Regulated Land Disturbance Activity pursuant to Section 5-1304 or a Tier 1 Land Disturbance Activity pursuant to Section 5-1305 but, in the judgment of the City Administrator, involves only a De Minimis exceedance of requirements established in Section 5, and therefore qualifies as an exempt activity under the Land Disturbance Ordinance.

De Minimis means a minor or insignificant amount or deviation that is not anticipated to cause adverse effects.

Demolition is any act or process of wrecking or destroying a Building or Structure

as defined in this Article.

Detached Accessory Building means a building separated by open space from the principal building on the same lot and having a use customarily incident to the main use of the property. Detached accessory buildings include, but are not limited to, detached garages, storage sheds, gazebos, and buildings related to the use of outdoor recreational facilities.

Detention facility is a temporary or permanent natural or man made structure that provides for the temporary storage of storm water runoff.

Erosion is the wearing away of the ground surface as a result of the movement of wind, water, ice, and/or Land Disturbance Activities.

Erosion and Sediment Control Plan (Plan) is a plan which includes a set of Best Management Practices or equivalent measures designed to control surface runoff and erosion and to retain sediment On-Site during the period in which pre-construction- and construction-related Land Disturbance Activities occur, and before final improvements are completed, all in accordance with the specific requirements set forth in the Land Disturbance Permit and in Article 13 of Chapter V. An *Annual Comprehensive Erosion and Sediment Control Plan* may be issued only to a Country Club in connection with an Annual Comprehensive Land Disturbance Plan, and must incorporate BMPs or equivalent measures designed to control surface runoff and erosion and to retain sediment On-Site, and to otherwise adequately address all types of Land Disturbance Activities that are anticipated to be implemented throughout the course of the year. Unless distinguished within the respective section or subsection of this Article, Plan or Erosion and Sediment Control Plan shall also include an Annual Comprehensive Erosion and Sediment Control Plan.

Erosion control means the prevention or reduction of soil particle movement. Erosion control reduces soil destabilization, detachment, transport and Off-Site deposition.

Excavation is the mechanical removal of natural earth materials, including soil, rock, and gravel.

Field Inspection Report means a report or notes based on site inspections and observations which relate to the implementation and effectiveness of the BMPs, and are deemed incorporated into the associated Land Disturbance Permit the Erosion and

Sediment Control Plan, if applicable; minor changes to the BMPs and the Erosion and Sediment Control Plan may be authorized by the City Administrator by indicating those minor changes in the Field Inspection Report.

Fill is a deposit of natural earth materials (except Mulch), including soil, rock and gravel, placed by artificial means.

Floodplain is the one hundred (100) year floodplain which is that area adjoining a watercourse which could be inundated by a flood that has a one (1) percent chance of being equaled or exceeded in any given year and is delineated on the Federal Emergency Management Agency Floodway Maps for Mission Hills.

Front Yard means an open space, unoccupied except as otherwise provided in the Zoning Regulations of the Code of Ordinances, on the same lot with the principal building, between the wall of the principal building nearest the street on which the lot fronts and the line of that wall extended, the side lines of the lot and the front street line of the lot. The depth of the front yard shall be determined by measuring the distance between the nearest point of the street wall of the principal building and front line of the lot, or that line produced, measured at right angles to the front line of the lot. The front yard of a corner lot consisting of one platted lot shall be adjacent to that street on which the lot has its least dimension, provided that if the City Administrator determines that the corner lot is unique in shape or other characteristic, the City Administrator may determine the front yard of the lot and in so doing shall consider all appropriate factors, including, but not limited to, the manner in which the principal building is located on the lot, the location of the principal building on adjoining lots, and the street address of the lot.

General storm water permit is the Kansas Department of Health and Environment's (KDHE) general National Pollutant Discharge Elimination System (NPDES) construction storm water permit covering anyone conducting a Land Disturbance Activity which disturbs five (5) or more acres of total land area.

Geotechnical Engineer is an engineer experienced and knowledgeable in the practice of soils (geotechnical) engineering.

Geotechnical engineering is the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and/or testing of the construction thereof.

Grade is the vertical location of the ground surface.

- (a) *Existing grade* is the grade prior to any Land Disturbance Activities for which a Land Disturbance Permit is being sought.
- (b) *Rough grade* is the stage at which the grade approximately conforms to the approved plan.
- (c) *Finished grade* is the final elevation of the ground surface which conforms to the approved plan.

Grading means any stripping, cutting, filling, stockpiling, or any combination thereof including the land in its cut-and-filled condition.

Land Disturbance Activity is any activity that may result in increased soil erosion or sedimentation affecting Off-Site waters, lands and right-of-ways within the City of Mission Hills, including but not limited to destruction or removal of vegetation that covers the soil at a site, clearing and grubbing, grading, excavating, recontouring, stripping and filling of land.

Maintenance project is a non-construction related activity.

Mulch is a covering of wood, cocoa beans, or other type of natural material intended to spread on the top of the ground to preserve moisture and inhibit weed growth. Mulch is not an organic material to be used as a soil amendment to be incorporated into the soil.

NPDES means the National Pollutant Discharge Elimination System; a program mandated by Congress under the Clean Water Act which involves a two-phased, national program to address non-agricultural sources of stormwater discharge and prevent harmful pollutants from being washed into local water bodies by stormwater runoff.

Off-Site means any location other than the property upon which Land Disturbance Activities have been or are being conducted. Off-site waters include creeks, tributaries, streams and rivers, even if those waters border or cross through private property upon which the Land Disturbance Activities have been or are being conducted.

On-Site means the property upon which Land Disturbance Activities have been or are being conducted.

Outfall is the point of discharge to any watercourse from a public or private stormwater drainage system.

Owner is any person with a legal or equitable interest in the land for which a Land Disturbance Permit application has been submitted to the City.

Permit means a Land Disturbance Permit or Annual Comprehensive Land Disturbance Permit issued by the City for Regulated Land Disturbance Activities, and which may contain site-specific requirements and conditions to achieve compliance. Permits are required for all Regulated Land Disturbance Activities.

Permittee is the Applicant in whose name a valid Land Disturbance Permit is duly issued by the City pursuant to this Section, and his/her agents, designees, employees, and others acting under his/her direction.

Principal Building means the building housing the main use of the property on which it is situated. A building housing an accessory use is considered an integral part of the principal building, when it has any part of a wall in common with the principal building or is under an extension of the main roof and designed as an integral part of the principal building. A building which is not considered an integral part of the principal building shall be deemed a detached accessory building. A structure which is attached to the principal building but which does not have a roof shall be considered an accessory structure, and shall not be considered part of the principal building.

Recontouring is a physical change to the existing topography at a site by conducting Land Disturbance Activities.

Regulated Land Disturbance Activities means both Tier 2 and Tier 3 Land Disturbance Activities, but does not include Tier 1 Land Disturbance Activities.

Retention facility is a temporary or permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.

Runoff is rainfall, snowmelt, or irrigation water flowing over the ground surface.

Sediment is soil or other surficial materials transported by surface water or wind.

Sedimentation is the process or action of deposition of sediment Off-Site into waters or onto lands.

Site is the entire area of land on which the Land Disturbance Activity is proposed in the permit application.

Site plan is a plan or set of plans showing the details of any Land Disturbance Activity of a site including but not limited to the construction of: structures, open and enclosed drainage facilities, stormwater management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, and landscaping.

Slope is the incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

Soil is naturally occurring surficial deposits overlying bedrock.

Stop-Work Order means an order issued by the City Administrator notifying the Permittee or Owner to cease all Land Disturbance Activities based on noncompliance with the Land Disturbance Permit, the Erosion and Sediment Control Plan and/or the requirements of the Code of Ordinances.

Stripping is any activity which destroys, removes or significantly disturbs the vegetative surface cover and/or topsoil.

Structure is anything constructed, erected, or installed which requires location on the ground or attached to something having a location on the ground, including, but not limited to, buildings, accessory structures, pools, pool equipment, patios, decks, walkways, outdoor recreational facilities, fences, walls, retaining walls, driveways, antennas, church signs, golf club signs, and any apparatus to be used for the purpose of locating, drilling or establishing a gas or oil well; provided, however, that the term "structure" does not include Basketball Goals, Flagpoles, or Identification, Political, Directional, Security, neighborhood safety, For Sale or For Rent Signs allowed under the Zoning Regulations, tree wells, plant materials (trees, flowers, shrubs, sod and similar materials) or decorative borders not exceeding one (1) foot above ground level in height.

Surveyor is a person duly registered or authorized to practice land surveying in the State of Kansas.

Topsoil is the upper layer of soil.

Utility is the owner/operator of any facility including a line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, water (including stormwater), steam, sewage and other similar substances.

Watercourse is any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

Watershed is the region drained by or contributing to a stream, lake, or other body of water.

Wetland means a land area that is wet or flooded by surface or groundwater often enough and long enough to develop characteristic hydric soil properties and to support hydrophytic vegetation that will grow in saturated soil conditions.

SECTION 3. Existing Section 5-1304 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1304. Regulated Land Disturbance Activity. The City of Mission Hills regulates certain Land Disturbance Activities to safeguard persons, protect property, and prevent damage to the environment and natural resources. An Applicant for a project involving either a Tier 2 or Tier 3 Regulated Land Disturbance Activity, as established below, must obtain a Land Disturbance Permit (Permit) prior to commencing such activities.

a) Tier 2 Land Disturbance Activity:

- 1) (A) total land disturbance is between five hundred (500) square feet and two thousand (2000) square feet, or (B) fill is between six (6) and ten (10) cubic yards; and
- 2) (A) the slope of the land at the site of land disturbance is between one (1) foot vertical to fifteen (15) feet horizontal and one (1) foot vertical to six (6) feet horizontal, or (B) the location of the land disturbance is between ten (10) to twenty (20) feet from the property line, watercourse or wetland.

- b) Tier 3 Land Disturbance Activity:
 - 1) (A) total land disturbance is greater than two thousand (2000) square feet, or fill is greater than ten (10) cubic yards; and
 - 2) (A) the slope of the land at the site of land disturbance is greater than one (1) foot vertical to six (6) feet horizontal, or (B) the location of the land disturbance is less than ten (10) feet from the property line, watercourse or wetland.

c) Permit fees. Tier 2 Land Disturbance Activities require a Land Disturbance Permit, but no Permit fee shall be assessed. Tier 3 Land Disturbance Activities require a Land Disturbance Permit, and a Permit fee shall be assessed. Land Disturbance Activities of less than one acre conducted in the D-1 Zoning District by a Country Club may be authorized under an Annual Comprehensive Land Disturbance Permit for which a one-time, annual fee shall be assessed. All fees for Land Disturbance Permits and Annual Comprehensive Land Disturbance Permits shall be assessed based on the schedule authorized by this Chapter, and as approved annually by the City Council.

SECTION 4. Existing Section 5-1305 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1305. Exemptions.

- a) Tier I Land Disturbance Activity and Conditional Tier I Land Disturbance Activity. If the proposed Land Disturbance Activity satisfies all of the following requirements, it qualifies as a Tier 1 Land Disturbance Activity and is exempt from obtaining a Land Disturbance Permit:
 - 1) total land disturbance is less than five hundred (500) square feet, and fill is less than six (6) cubic yards;
 - 2) no additional impervious area is added;
 - 3) no land disturbance or fill occurs in a watercourse or wetland;
 - 4) slope of the land at the site of land disturbance is flatter than one (1) foot vertical to fifteen (15) feet horizontal; and
 - 5) location of the land disturbance is greater than twenty (20) feet from the property line, watercourse or wetland.

In the event that not all of the foregoing requirements will be satisfied, but,

in the judgment of the City Administrator, one of the requirements may be exceeded in a De Minimis manner or amount, it may qualify as a Conditional Tier 1 Land Disturbance Activity and an exemption may be granted at the discretion of the City Administrator. Similarly, if any Land Disturbance Activity does not qualify as a Regulated Land Disturbance Activity pursuant to Section 5-1304, it may be considered by the City Administrator for exemption status as a Conditional Tier 1 Land Disturbance Activity.

- b) Annual Comprehensive Land Disturbance Permit. Many Country Clubs with golf courses require constant maintenance and development activities involving land disturbance. As a general rule, Land Disturbance Activities conducted on properties within a D-1 Zoning District, and with substantial buffer zones, are not anticipated to affect Off-Site waters or land, and to require a Country Club to apply for an individual Land Disturbance Permit for each Land Disturbance Activity could become an excessive administrative burden. Therefore, an exemption exists to allow a Country Club to obtain one Annual Comprehensive Land Disturbance Permit to address each and every Land Disturbance Activity involving impacts to less than one acre. Land Disturbance Activities at a Country Club may qualify for and be incorporated into an Annual Comprehensive Land Disturbance Permit contingent upon the development of and compliance with an Annual Comprehensive Erosion and Sediment Control Plan that must be approved by the City Administrator once each calendar year.

SECTION 5. Existing Section 5-1307 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1307. Application. A written application from the Applicant, in the form prescribed by the City, shall be required for each Land Disturbance Permit and Annual Comprehensive Land Disturbance Permit. The respective fees shall be paid pursuant to the schedule authorized by this Chapter, and as approved annually by the City Council. Plans and specifications shall be prepared or approved and signed by a civil engineer, surveyor, architect, or landscape architect. The City Administrator may waive the preparation or approval and signature by the civil engineer, surveyor, architect, or landscape architect when it is self-evident that the work is simple, clearly shown, and entails no hazard or nuisance potential to adjacent property or watercourse, and does not include the placement of fill upon which a structure may be erected. An application form may be obtained from the City Clerk and must be completed in its entirety before

consideration by the City Administrator.

SECTION 6. Existing Section 5-1308 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1308. Erosion and Sediment Control Plan (Plan). Tier 3 Land Disturbance Activities require an Erosion and Sediment Control Plan that will be developed to address the specific Land Disturbance Activity. In addition, for any property located in a D-1 Zoning District, a City Administrator-approved Annual Comprehensive Erosion and Sediment Control Plan will be required to address all types of Land Disturbance Activities which, individually, will affect less than one acre of land, and that, cumulatively, are anticipated to be conducted on the respective property throughout the calendar year. Both the Erosion and Sediment Control Plan and the Annual Comprehensive Erosion and Sediment Control Plan are referred to herein as the "Plan" or the "Erosion and Sediment Control Plan", unless otherwise specified in the respective section or subsection of this Article. The Plan shall be drawn to an appropriate scale and shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed land disturbance on water resources, and measures proposed to minimize soil erosion and Off-Site stormwater drainage and sedimentation. The Permittee shall perform all Land Disturbance Activities in strict accordance with the approved Plan. The essential information to be included in the Plan is identified in either the Erosion and Sediment Control Plan Guidance Document or the Annual Comprehensive Erosion and Sediment Control Plan Guidance Document which are on file with the City and may be obtained from the City Clerk.

SECTION 7. Existing Section 5-1311 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1311. Permit duration.

- (a) Land Disturbance Permits issued under Chapter V shall be valid for the period during which the proposed Land Disturbance Activity takes place or are scheduled to take place, whichever is shorter, but in no event shall such a Permit be valid for more than ninety (90) days, unless the Land Disturbance Permit is issued in conjunction with the construction of a Principle Building or Detached Accessory Building, in which case the Land Disturbance Permit shall be valid for one hundred eighty (180) days or the duration of the Building Permit, whichever is longer. The Permittee shall commence permitted Land Disturbance Activities

within ninety (90) days of the Land Disturbance Permit issuance date or the Permittee shall resubmit all required application forms, maps, plans, and schedules to the City, except where an item(s) to be resubmitted is waived by the City Administrator.

- (b) An Annual Comprehensive Land Disturbance Permit issued under Chapter V for Land Disturbance Activities on D-1 properties shall be valid only for the calendar year in which it is issued.

SECTION 8. Existing Section 5-1312 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1312. Permit renewals/extensions. The Permittee shall fully perform and complete all of the work required in the sequence established in the Land Disturbance Permit and/or the Erosion and Sediment Control Plan within the specified timeframe. Prior to the expiration of a Land Disturbance Permit, the Permittee may present a written request for an extension to the City Administrator. If, in the opinion of the City Administrator, a Land Disturbance Permit extension is warranted, the City Administrator may authorize a sixty (60) day extension, at the rate established in the schedule authorized by this Chapter, and as approved annually by the City Council; *provided* that if multiple extensions are requested, the duration of the extensions shall not exceed a combined total of one (1) year. No renewals or extensions shall be granted for Annual Comprehensive Land Disturbance Permits.

SECTION 9. Existing Section 5-1313 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1313. Permit denial. If the City Administrator determines that the Land Disturbance Permit application or the proposed Erosion and Sediment Control Plan, if required, does not meet the requirements of this Section or of Chapter V, a Land Disturbance Permit shall not be issued. The Erosion and Sediment Control Plan must be resubmitted for approval before any Land Disturbance Activity begins. All Building Permits for Principle Buildings or Detached Accessory Buildings shall be suspended until the Permittee has a valid Land Disturbance Permit and an approved Erosion and Sediment Control Plan, if applicable.

SECTION 10. Existing Section 5-1314 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1314. Conditions of Permit approval. In granting a Land Disturbance

Permit or an Annual Comprehensive Land Disturbance Permit pursuant to Chapter V, the City may impose such conditions as may be reasonably necessary to prevent creation of a nuisance or unreasonable hazard to persons or to a public or private property. Such conditions shall include (even if not specifically written in the Permit), but need not be limited to:

- a) Implementation of approved BMPs, as established in the City's BMP Manual, as amended from time to time.
- b) The granting (or securing from others) and the recording in County land records of easements for drainage facilities, including the acceptance of their discharge on the property of others, and for the maintenance of slopes or erosion control facilities.
- c) Improvements of any existing grading, ground surface or drainage condition on the site (not to exceed the area as proposed for work or development in the application) to meet the standards required under Chapter V for new grading, drainage and erosion control.
- d) Installation of additional safety-related devices that may be necessary in conjunction with certain types of BMPs, such as sediment traps and basins located within a densely populated area or in the proximity of a park, playground or other area where small children may congregate without adult supervision.
- e) Disturbance of the site should be consistent with the existing topography to the maximum extent practicable so that grading can match existing contours and existing natural drainage can be preserved.
- f) Land Disturbance Activities should disturb the smallest practical area of vegetated, stable soil. Those parts of the site that do not require immediate disturbance should remain in a natural state until Land Disturbance Activity is necessary.
- g) Soil stockpiles that will remain for more than twenty (20) days or are within fifty (50) feet of an existing watercourse or wetland shall have stabilization and containment measures implemented within five (5) days of stockpile creation or placement.
- h) Site stabilization shall be completed within twenty (20) days of the completion of the subject Land Disturbance Activity.
- i) Based on the existing conditions of the site and adjacent properties, the City Administrator may request additional information or studies as deemed necessary to more accurately evaluate the impacts and to ensure control of the proposed Land Disturbance Activities, including but not limited to requiring a Soil Engineering Report, Engineering Geology Report, and Stormwater Drainage Study.

SECTION 11. Existing Section 5-1315 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1315. Responsibility of Permittee. The Permittee shall maintain a copy of the Land Disturbance Permit or Annual Comprehensive Land Disturbance Permit, and Erosion and Sediment Control Plan and reports required under the Permit, if applicable, on the work site and available for public inspection during all working hours. The Permittee shall, at all times, be in conformity with the Permit, the approved Erosion and Sediment Control Plan, and shall also conform to the following:

- a) General. Notwithstanding other conditions or provisions of the Permit, or the minimum standards set forth in Chapter V, the Permittee is responsible for the prevention of damage to Off-Site properties. No person shall grade on land in any manner, or so close to the property line as to endanger or damage any adjoining public street, sidewalk, alley or any other public or private property without supporting and protecting such property from settling, cracking, erosion, sedimentation or other property damage or personal injury which might result.
- b) Public ways. The Permittee shall be responsible for the prompt removal of, and the correction of damages resulting from any soil, miscellaneous debris or other materials washed, spilled, tracked, dumped or otherwise deposited on public streets, highways, sidewalks or other public thoroughfare, incident to the construction activity, or during transit to and from the construction site.

SECTION 12. Existing Section 5-1316 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1316. Permit authorization. The issuance of a Land Disturbance Permit or an Annual Comprehensive Land Disturbance Permit shall constitute an authorization to do only that work described or referenced in the Permit, all in strict compliance with the requirements of Chapter V, unless each and every modification or waiver is specifically listed and given specific approval by the City Administrator.

SECTION 13. Existing Section 5-1317 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1317. Compliance; Action upon noncompliance. The Permittee shall

carry out the authorized Land Disturbance Activities in accordance with all conditions and requirements of the Land Disturbance Permit, Annual Comprehensive Land Disturbance Permit and the associated Erosion and Sediment Control Plan, if applicable.

- a) In the event work does not conform to the Permit or to the associated Erosion and Sediment Control Plan, notice to comply shall be issued to the Permittee in writing. After a notice to comply is issued, the Permittee shall be required to make the corrections within the time period determined by the City Administrator. If an imminent hazard exists, the City may require that the corrective work begin immediately.
- b) If the City finds any existing conditions not as stated in the application, Permit, or approved plans, the City Administrator may stop the work on the entire project or any specified part thereof until a revised plan is submitted conforming to the currently existing conditions.
- c) Failure of the Permittee to comply with the directives of this Article or the applicable Permit shall constitute a violation of this Article 13, and may also be classified as a nuisance pursuant to Chapter VI of the Code of Ordinances, and the City may terminate the Permit and proceed with, or cause, the necessary restoration of the site at the expense of the Permittee. The Permittee will be billed for any related expenses incurred by the City. Failure to pay will result in the City seeking recovery of costs and damages pursuant to the provisions set forth in the Code of Ordinances.

SECTION 14. Existing Section 5-1318 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1318. Changes to Plan. All changes or modifications to an approved Erosion and Sediment Control Plan must adhere to the following conditions:

- (1) All proposals to modify the approved Plan must be submitted to the City Administrator for approval. No Land Disturbance Activities or any type of work in connection with any proposed modification shall be conducted without prior written approval of the City Administrator.
- (2) When inspection of a site indicates that the approved Erosion and Sediment Control Plan requires change, the change shall be in compliance with the

erosion and sediment control criteria contained in the BMP Manual. The City Administrator may approve minor modifications to an approved Plan in the field if documented on a Field Inspection Report. The modification shall be noted on the approved Plan, signed by the City Administrator, and dated. A list of allowable field modifications are established in the BMP Manual.

- (3) The Permittee shall submit requests for major revisions to an approved Erosion and Sediment Control Plan, such as the addition or deletion of a sediment basin, to the City Administrator. This includes revisions due to plan and site discrepancies and inadequacies at controlling erosion and sediment as revealed through inspection. Major revisions must be approved in writing by the City Administrator, and affixed to the Permit and/or Plan before the modification may be implemented.

SECTION 15. Existing Section 5-1319 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1319. Inspection and supervision. The Permittee shall conduct a pre-Land Disturbance Activity meeting On-Site with the City on each site which has an approved Erosion and Sediment Control Plan; provided, however, that this requirement shall not be applicable to Land Disturbance Activities conducted on property in the D-1 District for which Annual Comprehensive Land Disturbance Permit has been issued and is currently valid. After commencing initial Land Disturbance Activities, the Permittee shall obtain written inspection approvals by the City at the following stages in the development of the site:

- a) Controls Installation. Upon completion of installation of perimeter erosion and sediment controls, prior to proceeding with any other Land Disturbance Activities. Other building inspection approvals may not be authorized until Controls Installation approval is issued by the City Administrator.
- b) Completion of Land Disturbance Activities. Upon completion of Land Disturbance Activities, the construction of temporary erosion and sediment control facilities, disposal of all waste material, and preparation of the ground and completion of rough grading, but prior to placing topsoil, permanent drainage or other site development improvements and ground covers.
- c) Finished Grade and Revegetation. Upon completion of final grading, permanent drainage and erosion control facilities including established

ground covers and planting, and all other work under the Land Disturbance Permit.

- d) Miscellaneous. The City may require additional inspections as may be deemed necessary. Work shall not proceed beyond the stages outlined above until the City Administrator inspects the site and approves the work previously completed. Requests for inspections shall be made at least twenty-four (24) hours in advance (exclusive of Saturdays, Sundays, and holidays) of the time the inspection is desired. Upon request for inspections, the City shall perform the inspection within forty-eight (48) hours of request. In making application for a Land Disturbance Permit under Chapter V, the Owner performing or allowing such work consents to the City having the right to enter the site for the purpose of inspecting compliance, or for performing any work necessary to bring the site into compliance, with the Land Disturbance Permit and/or the Erosion and Sediment Control Plan. This does not include consent to enter into any building which is completed and which has been secured, but does include consent to inspect any area of the property where Land Disturbance Activity is occurring.

SECTION 16. Existing Section 5-1322 of the Code of Ordinances of the City of Mission Hills, Kansas is hereby amended to read as follows:

5-1322. Enforcement. The City shall be responsible for the enforcement of the Land Disturbance Permit and Annual Comprehensive Land Disturbance Permit under Chapter V.

- a) The City may issue a Stop-Work Order for the Land Disturbance Activities or any associated project if any of the following conditions exist:
- 1) Any Land Disturbance Activity regulated under Chapter V is being undertaken without a Land Disturbance Permit or an Annual Comprehensive Land Disturbance Permit.
 - 2) The Erosion and Sediment Control Plan or Annual Comprehensive Erosion and Sediment Control Plan is not being fully implemented.
 - 3) Any of the conditions of the Permit are not being met.
 - 4) Erosion, sedimentation, pooling, flooding or other adverse impacts have been confirmed on adjacent property as a result of the Land Disturbance Activity.
 - 5) Failure to receive ARB approval, if required.

- b) For the purposes of this Section, a Stop-Work Order is validly issued by

posting a copy of the Stop-Work Order on the site of the Land Disturbance Activity in reasonable proximity to a location where the Land Disturbance Activity is taking place. Additionally, a copy of the order, in the case of work for which there is a Permit, shall be mailed by first class mail, postage pre-paid, to the address listed by the Permittee on the Permit. In the case of work for which there is no permit, a copy of the order shall be mailed to the Owner of the property as listed on the County Assessor's records.

- c) If the Permittee does not cease the activity or comply with the Land Disturbance Permit and/or the Erosion and Sediment Control Plan within two (2) days after issuance of the Stop-Work Order, the City Administrator may revoke the Permit.
- d) If the Permittee or Owner, where no permit has been issued, does not cease the Land Disturbance Activity, the City may request the City Attorney to obtain injunctive relief.
- e) The City may retract the revocation.
- f) Ten (10) days after posting a Stop-Work Order, the City may issue a notice of intent to the Permittee of the City's intent to perform work necessary to comply with Chapter V. The City may go On-Site and commence work after ten (10) days from issuance of the notice of intent. The costs incurred by the City to perform this work shall be paid by the Permittee or the Owner, in the event that no Permit was issued. The cost shall include interest at the rate authorized by the City, plus a reasonable administrative fee that fully reflects the cost to the City of evaluating the project and enforcing compliance. If the amount due is not paid within thirty (30) days, the City Clerk shall enter the amount due on the tax roll and collect as a special assessment against the property using the procedures for collecting the assessment, providing for the notice of assessment, hearing thereon, and appeal as provided in Chapter VI of the Mission Hills Code of Ordinances, or otherwise collect the cost, as provided in and in accordance with the applicable provisions of Kansas law.
- g) Compliance with the provisions of Chapter V may also be enforced by injunction.
- h) A notice of intent to perform work necessary to comply with Chapter V pursuant to Section 5-1322(f) may be served in the manner specified for a

Stop-Work Order in Section 5-1322(b).

SECTION 17. A new Section 5-1326 is hereby added to the Code of Ordinances of the City of Mission Hills, Kansas to read as follows:

5-1326. Application and Inspection fees. The fees for the Land Disturbance Permit, including an Annual Comprehensive Land Disturbance Permit, required in Section 5-1304 of Chapter V shall be paid in an amount calculated to cover the costs incurred by the City to evaluate and inspect the project, but it shall be at least as set out in the schedule set forth in the tables below:

– SCHEDULE A –
LAND DISTURBANCE PERMIT FEES

Tier 1 Land Disturbance Permit: No permit; no fee.

Tier 2 Land Disturbance Permit: Permit; no fee.

Tier 3 Land Disturbance Permit: \$75.00 + \$25.00 for each additional 3,000 square feet of disturbed area, not to exceed a total of \$300.00.

Land Disturbance Permit Extension: No fee.

Annual Comprehensive Land Disturbance Permit: \$250.00.

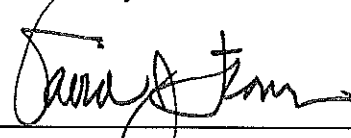
– SCHEDULE B –
LAND DISTURBANCE CONTROL PLAN REVIEW AND INSPECTION FEES
(UTILITIES)

Per lineal foot disturbed.....	\$ 0.10
Minimum fee.....	\$25.00

SECTION 18. That existing Sections 5-1301, 5-1303, 5-1304, 5-1305, 5-1307, 5-1308, 5-1311, 5-1312, 5-1313, 5-1314, 5-1315, 5-1316, 5-1317, 5-1318, 5-1319 and 5-1322 of the Code of Ordinances of the City of Mission Hills, Kansas, are hereby repealed.

SECTION 19. This ordinance shall take effect upon its publication in the official City newspaper.

PASSED by the City Council this 8th day of January, 2008. **APPROVED** by the Mayor.



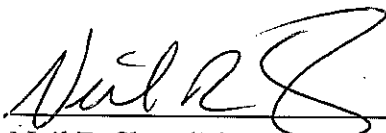
David J. Fromm, Mayor

ATTEST:



Jill R. Clifton, City Clerk

APPROVED AS TO FORM:



Neil R. Shortlidge, City Attorney



Appendix G

Ordinance 1227

ORDINANCE NO. 1227

**AN ORDINANCE RELATING TO STORMWATER, EROSION AND SEDIMENT
CONTROL FOR LAND DISTURBANCE ACTIVITIES; AMENDING AND
REPEALING EXISTING SECTIONS 5-1314, 5-1315 AND 5-1326 OF THE CODE OF
ORDINANCES OF THE CITY OF MISSION HILLS, KANSAS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION HILLS,
KANSAS:**

SECTION 1. Existing Section 5-1314 of the Code of Ordinances of the City of Mission Hills, Kansas, is hereby amended to read as follows:

5-1314. **Conditions of Permit approval.** In granting a Land Disturbance Permit or an Annual Comprehensive Land Disturbance Permit pursuant to Chapter V, the City may impose such conditions as may be reasonably necessary to prevent creation of a nuisance or unreasonable hazard to persons or to a public or private property. Such conditions shall include (even if not specifically written in the Permit), but need not be limited to:

- a) Implementation of approved BMPs, as established in the City's BMP Manual, as amended from time to time.
- b) The granting (or securing from others) and the recording in County land records of easements for drainage facilities, including the acceptance of their discharge on the property of others, and for the maintenance of slopes or erosion control facilities.
- c) Improvements of any existing grading, ground surface or drainage condition on the site (not to exceed the area as proposed for work or development in the application) to meet the standards required under Chapter V for new grading, drainage and erosion control.
- d) Installation of additional safety-related devices that may be necessary in conjunction with certain types of BMPs, such as sediment traps and basins located within a densely populated area or in the proximity of a park, playground or other area where small children may congregate without adult supervision.
- e) Disturbance of the site should be consistent with the existing topography to the maximum extent practicable so that grading can match existing contours and existing natural drainage can be preserved.
- f) Land Disturbance Activities should disturb the smallest practical area of vegetated, stable soil. Those parts of the site that do not require immediate disturbance should remain in a natural state until Land Disturbance Activity is necessary.

- g) Soil stockpiles that will remain for more than twenty (20) days or are within fifty (50) feet of an existing watercourse or wetland shall have stabilization and containment measures implemented within five (5) days of stockpile creation or placement.
- h) Site stabilization shall be completed within twenty (20) days of the completion of the subject Land Disturbance Activity.
- i) Based on the existing conditions of the site and adjacent properties, the City Administrator may request additional information or studies as deemed necessary to more accurately evaluate the impacts and to ensure control of the proposed Land Disturbance Activities, including but not limited to requiring a Soil Engineering Report, Engineering Geology Report, and Stormwater Drainage Study.
- j) Posting of a performance bond.

SECTION 2. Existing Section 5-1315 of the Code of Ordinances of the City of Mission Hills, Kansas, is hereby amended to read as follows:

5-1315. **Responsibility of Permittee.** The Permittee shall maintain a copy of the Land Disturbance Permit or Annual Comprehensive Land Disturbance Permit, and Erosion and Sediment Control Plan and reports required under the Permit, if applicable, on the work site and available for public inspection during all working hours. In addition, a placard indicating that the permit has been issued shall be posted on the property and visible from the street. The Permittee shall, at all times, be in conformity with the Permit, the approved Erosion and Sediment Control Plan, and shall also conform to the following:

- a) General. Notwithstanding other conditions or provisions of the Permit, or the minimum standards set forth in Chapter V, the Permittee is responsible for the prevention of damage to Off-Site properties. No person shall grade on land in any manner, or so close to the property line as to endanger or damage any adjoining public street, sidewalk, alley or any other public or private property without supporting and protecting such property from settling, cracking, erosion, sedimentation or other property damage or personal injury which might result.
- b) Public ways. The Permittee shall be responsible for the prompt removal of, and the correction of damages resulting from any soil, miscellaneous debris or other materials washed, spilled, tracked, dumped or otherwise deposited on public streets, highways, sidewalks or other public thoroughfare, incident to the construction activity, or during transit to and from the construction site.

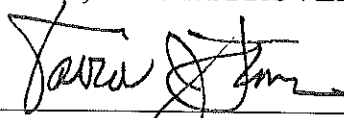
SECTION 3. Existing Section 5-1326 of the Code of Ordinances of the City of Mission Hills, Kansas, is hereby amended to read as follows:

Section 5-1326. **Application and Inspection fees.** The fees for the Land Disturbance Permit, including an Annual Comprehensive Land Disturbance Permit, required in Section 5-1304 of Chapter V shall be paid in an amount calculated to cover the costs incurred by the City to evaluate and inspect the project, but it shall be at least as set out in a fee schedule to be adopted by the City Council by resolution.

SECTION 4. Existing Sections 5-1314, 5-1315, and 5-1326 of the Code of Ordinances of the City of Mission Hills, Kansas, are hereby repealed.

SECTION 5. This ordinance shall take effect from and after its publication in the official City newspaper.

PASSED by the City Council this 4th day of March, 2008. **APPROVED** by the Mayor.



David J. Fromm, Mayor

ATTEST:



Jill R. Clifton, City Clerk

APPROVED AS TO FORM:



Neil R. Shortlidge, City Attorney